

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WINIFRED RUMMERFIELD,

Plaintiff,

Hon. Janet T. Neff

v.

Case No. 1:09-CV-1084

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

REPORT AND RECOMMENDATION

This is an action pursuant to Section 205(g) of the Social Security Act, 42 U.S.C. § 405(g), to review a final decision of the Commissioner of Social Security denying Plaintiff's claim for benefits. Pursuant to 28 U.S.C. § 636(b)(1)(B), the undersigned recommends that Plaintiff's appeal be **dismissed for failure to prosecute**.

Plaintiff initiated the present action on December 1, 2009. On March 1, 2010, the Court entered an order directing the filing of briefs. Plaintiff was directed to submit a brief in support of her appeal no later than March 29, 2010. As of May 25, 2010, Plaintiff had neither filed a brief in support of her appeal nor requested additional time to do so. On that date, the Court issued an Order to Show Cause directing Plaintiff to "show cause why this case should not be dismissed for failure to prosecute and her failure to comply with the Court's Order directing her to submit a brief in support of her appeal." Plaintiff responded that she was "confused" about the status of her claim. The Court's Order directing Plaintiff to file a brief in support of her appeal was unequivocal. Nevertheless, the deadline

by which Plaintiff was to have submitted her brief passed six months ago and Plaintiff has still failed to comply with the Court's Order.

As the United States Supreme Court long ago recognized, "[t]he authority of a federal trial court to dismiss a plaintiff's action with prejudice because of his failure to prosecute cannot seriously be doubted." *Link v. Wabash Railroad Co.*, 370 U.S. 626, 629 (1962). This authority "is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the District Courts." *Id.* at 629-30. Plaintiff has exhibited no interest in pursuing her appeal in this Court.

CONCLUSION

Accordingly, the undersigned recommends that Plaintiff's appeal be **dismissed for failure to prosecute**.

OBJECTIONS to this report and recommendation must be filed with the Clerk of Court within fourteen (14) days of the date of service of this notice. 28 U.S.C. § 636(b)(1)(C). Failure to file objections within the specified time waives the right to appeal the District Court's order. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

Date: September 29, 2010

/s/ Ellen S. Carmody
ELLEN S. CARMODY
United States Magistrate Judge